SIKKIM

GOVERNMENT GAZETTE

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GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

NOTIFICATION

No. 21/LD/P/2008 **Date: 10.04.2008**

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the 28th day of March, 2008 is hereby published for general information:-

THE SIKKIM ECOLOGY FUND AND ENVIRONMENT CESS (AMENDMENT) ACT, 2008

ACT NO. 5 OF 2008

A
ACT

further to amend the Sikkim Ecology Fund and Environment Cess Act, 2005.

Be it enacted by the Legislature of Sikkim in the Fifty-ninth Year of the Republic of India as follows:-

Short title, extent and commencement

1. (1) This Act may be called the Sikkim Ecology Fund and Environment Cess (Amendment) Act, 2008.
(2) It extends to the whole of Sikkim.
(3) Except when specifically provided otherwise in this Act for a particular provision, it shall be deemed to have come into force on the 1st day of April, 2007.

Amendment of section 2

2. In the Sikkim Ecology Fund and Environment Cess Act, 2005, (hereinafter referred to as the said Act), in Section 2,-
(i) in Explanation to clause (h), for the word and figure "Schedule I",the word and figure "Schedule II" shall be substituted,
(ii) after clause (h), the following clause shall be inserted, namely:-
"(hh) "person" means and includes any individual, firm, proprietor, Hindu Undivided Family, company or corporation including manufacturing company and corporation, Department of Central and State Governments and of other State Governments,Public Sector Undertaking, Autonomous Body, any authority established under any statute, society, club, association or incorporation of such society, club and association, and contractors engaged in the business of works contract whether under the Central or any of the State Governments or not;"

(iii) after clause (k), the following clause shall be inserted, namely,-
"(kk) "purchase invoice" means an invoice or cash memorandum or a bill showing total cost of the price of the goods specified in Schedule II, inclusive of all the charges, paid by a person to the selling dealer of any State other than Sikkim, whether registered under any Act of that State or not" ;

(iv) in clause (l), for the word and figure "Section 10" , the word and figure "Section 8" shall be substituted;

(i) in clause (m), after the last words "deferred payment" and before the punctuation mark ";", the following words shall be inserted,namely:-
"and includes the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract" ;

(ii) in Explanation 2 to clause (n),-
(a) the words "value added tax" appearing after the words and punctuation mark "excise duty," shall be omitted, ;
(b) the following Provisos shall be inserted to the said Explanation, namely:-
"Provided that value added tax and local sales tax payable under any other Acts of the State Government shall not be included in the sale price;
Provided further that the above Proviso shall come into force from the date of publication of this Act in the Official Gazette."

Amendment of section 5

3. In the said Act, for the existing section 5, the following shall be substituted, namely:-
"5. Environment cess shall be paid by:-
(1) (a) Every dealer or person including the person engaged in the business of works contract, whoever brings non-bio degradable materials as specified in Schedule II for sale, in Sikkim from outside Sikkim, on the sales turnover of such non-biodegradable materials or goods, from the date of commencement of the said Act:

Provided that in the case of persons engaged in the business of works contract, the paying authority of the contractee shall deduct the cess at source on total works bill value or amount at the rate specified in section 6 of this Act, in the manner as prescribed or may be prescribed."

(b) Every person or dealer, whoever brings non-bio degradable materials as specified in Schedule II in Sikkim from outside Sikkim for own use and consumption or for whatsoever purpose other than making sales in Sikkim, on the purchase invoice value, from the date of commencement of this Act:

Provided that the person or dealer whoever is engaged in the business of manufacturing of goods, shall pay the cess at such rate as specified in section 6 of this Act:

Provided further that when any person or dealer has paid cess in accordance with the provisions laid down in first Proviso, no such person or dealer shall be liable for cess under this Act for sales of manufactured goods within Sikkim.

(c) Every hotel, resort, lodge or motel operating or carrying on business within Sikkim, on the sales turnover.

(2) The State Government may by notification,allow payment of composite cess to such dealer or class of dealers having turnover below a specified limit, and in such manner, as prescribed or may be prescribed in the notification:

Provided that the prescribed authority shall verify the veracity of the turnover of the dealer and satisfy himself that the dealer exercising option for composite cess is eligible as such.

(3) On entry in Sikkim of such categories of vehicles, at such rates, and on such terms and conditions as may be specified by notification by the State Government.

(4) On any such other item having impact on environment directly or indirectly, at such rate or rates and on such conditions as may be prescribed by the State Government by notification."

Amendment of section 6

4. In the said Act, for the existing section 6, the following shall be substituted, namely:-

" 6. (1) The cess payable under the said Act shall be levied at the following rates, namely:-

(i) in respect of the sale of goods specified in Schedule II, by the persons specified in clause (a) of sub-section (1) of section 5, other than the persons engaged in the business of works contract, at the rate of one percent on total turnover of sales;

(ii) in respect of the goods or materials transferred in execution of works contract, at the rate of 0.50% on the gross value of the works bill:

Provided that this clause shall come into force from the date of publication of this Act in the Official Gazette;

(iii) in respect of the goods specified in Schedule II, by the persons and for the purpose specified in clause (b) of sub-section (1) of section 5, other than the persons engaged in the business of manufacturing, at the rate of one percent of the purchase price shown in the valid purchase invoice or on the local market price value if no valid purchase invoice is produced before the prescribed authority:

Provided that the prescribed authority may determine the market price at the relevant point of time after such verifications as he deems necessary;

(iv) in respect of the persons engaged in the business of manufacturing of goods specified in clause (b) of sub-section (1) of section 5, at the rate of 0.50% on the total purchase invoice value:

Provided that this clause shall come into force from the date of publication of this Act in the Official Gazette;

(v) In respect of hotel, resort, lodge or motel, at the rate of one percent on the gross sales turnover.

(2) The State Government may revise the rate of cess under clause (i), (ii), (iii), (iv) and (v) of sub-section (1) of section 6 from time to time by notification.

(3) The State Government may by notification, add to or omit from, or otherwise amend Schedule II and thereupon the said Schedule shall be deemed to be amended accordingly."

Insertion of new section 6A

5. In the said Act, after section 6, the following new Section shall be inserted, namely,-

"6A. Point of levy, and remittance of cess in certain cases.-

(1) The cess payable on sales of goods specified in Schedule II by a registered dealer shall be levied only once at the first stage or point of sales occurred in Sikkim after such goods are brought or imported from outside Sikkim.

(2) The persons referred to in clause (b) of sub-section (1) of section 5, but excluding individuals, whoever brings or imports into Sikkim from outside Sikkim goods

specified in Schedule II to the Act, for own use and consumption or for whatsoever purpose other than sales, shall remit the cess to the appropriate Head of Revenue at such stage, within such time and in such manner as prescribed or as may be prescribed."

Amendment of section 8

6. In the said Act, in section 8,-
(i) in sub-section (1), after the words "pay cess" and before the words "under this Act", the following words and punctuation marks shall be inserted, namely,-
"on sales of goods or materials specified in Schedule II,",
(ii) in sub-section (2), after the words "pay cess" and before the words "under this Act", the following words and punctuation marks shall be inserted, namely,-
"on sales of goods or materials specified in Schedule II,",

Amendment of section 10

7. In the said Act, in clause (a) of sub-section (3) of section 10, for the word and figure "section 11", the word and figure "section 9" shall be substituted.

Amendment of section 22

8. In the said Act, in clause (e) of sub-section (3) of section 22, for the word "tax" the word "cess" shall be substituted.

Amendment of Schedule I

9. In the said Act, in Schedule I, after serial number 25, the following serial number and item shall be inserted, namely,-
"26. Any other biodegradable materials defined in clause (a) of section 2 which is not specified by name in this Schedule."

Amendment of Schedule II

10. In the said Act, in Schedule II, after serial number 49, the following serial number and item shall be inserted, namely,-
"50. Any other non-biodegradable materials defined in clause (a) of section 2 which is not specified by name in this Schedule."

By Order.

R.K. PURKAYASTHA (SSJS)
LR-cum-Secretary
Law Department
File No. 16 (82)/ LD/P/2008